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**OFFICE OF PETITIONS**

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INTELLECTUAL PROPERTY DEPARTMENT  
SUITE 3400  
1420 FIFTH AVENUE  
SEATTLE, WA 98101

In re Application of  
Penney, et al.  
Application No. 09/836,593  
Filed: April 16, 2001  
Attorney Docket No. 500794.01

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed May 14, 2003. The petition will also be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition under 37 CFR 1.181(a) is **granted**.

The petition under 37 CFR 1.137(b) is **moot**.

This application was held abandoned on August 22, 2001, because it was believed that no timely response was received to the "Notice to File Corrected Application Papers", mailed June 21, 2001, which set a period for reply of two months. Petitioner was advised of the above-cited application's abandonment by a Notice of Abandonment mailed April 28, 2003.

**TREATMENT UNDER 37 CFR 1.181(a)**

Petitioner maintains that a communication responsive to the "Notice to File Corrected Application Papers" was timely filed. A review of the application file did reveal "Supplemental Preliminary Amendment" filed on August 15, 2001, that petitioner indicated was intended to be responsive to the notice of June 21, 2001. Based on the facts as stated in the instant petition and the filing uncovered by the undersigned in reviewing the application file, it is concluded that the holding of abandonment was improperly imposed. The holding of abandonment is, therefore, withdrawn as of the mailing date of this decision.

**TREATMENT UNDER 37 CFR 1.137(b)**

As the holding of abandonment was withdrawn via the successful petition under 37 CFR 1.181(a), there is no other remedy that can be provided relative to the petition under 37 CFR 1.137(b). The petition under 37 CFR 1.137(b) is, therefore, moot.

The application file is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

*Kenya A. McLaughlin*

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